BEFORE THE PUBLIC UTILITIES COMMISSION OF THE

STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Own Motion to Conduct a Comprehensive Examination of Investor Owned Electric Utilities' Residential Rate Structures, the Transition to Time Varying and Dynamic Rates, and Other Statutory Obligations.	R.12-06-013 (Filed June 21, 2012)

SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) RESPONSE TO THE MOTION OF THE CITY OF LANCASTER FOR CONSOLIDATION

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In accordance with Rule 11.1 of the California Public Utilities Commission (Commission) Rules of Practice and Procedure, Southern California Edison (SCE) hereby submits its Response to the Motion of the City of Lancaster (Lancaster) for consolidation of Application (A.) 16-09-003 (2016 Rate Design Window) and Rulemaking (R.) 12-06-013 (Motion) filed on November 2, 2016, in A.16-09-003 and R.12-06-013.

In its Motion, Lancaster characterizes SCE's proposal in its 2016 Rate Design Window to remove the Power Charge Indifference Adjustment (PCIA) exemption for departing load CARE and Medical Baseline[1] customers (PCIA Exemption Removal Proposal) as a "significant modification [to] the structure of the CARE discount,"[2] and recommends that SCE's proposal instead be considered in Phase 3 of R.12-06-013.

SCE respectfully requests that Lancaster's motion be denied. From a procedural standpoint, Lancaster would not at all be prejudiced by resolution of SCE's PCIA Exemption

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1 Although Lancaster's Motion focuses solely on the PCIA Exemption Removal Proposal for departing load CARE customers, SCE is also proposing to remove the PCIA Exemption for departing load Medical Baseline customers.

2 Motion at p. 1.

Removal Proposal in the RDW where it is currently pending. Lancaster has had many months to consider this discrete legal proposal because SCE originally filed it in a May 2016 advice letter that the Commission's Energy Division rejected as more appropriately considered in a proceeding "such as a rate design window" application.[3] SCE's 2016 Rate Design Window was filed on September 1, 2016—nine weeks before Lancaster thought to pursue party status in R.12-06-013 and filed its Motion. SCE served its customers with bill and newspaper notices under Rule 3.2 about the PCIA Exemption Removal Proposal. SCE has undertaken discovery about this matter, and many relevant parties—Lancaster, ORA and likely TURN[4]—are already following the proceeding. The legal issue at the heart of SCE's PCIA Exemption Removal Proposal is narrow but important, and delaying resolution of it by re-starting the clock in a different proceeding tackling a myriad of other issues is not prudent. Indeed, as explained in more detail below, the Commission recently adjudicated a nearly identical legal issue in A.14-11-007, the 2015-17 Low Income Assistance Proceeding, which no party sought to include in Phase 3 of R.12-06-013 (where it would not have belonged).

On the merits, SCE objects to Lancaster's incorrect characterization of the PCIA Exemption Removal Proposal as a CARE "restructuring" proposal as that term is understood in the context of Phase 3 of R.12-06-013. The parties in Phase 3 are considering "the restructuring of the CARE rate under AB 327,"[5] but the PCIA Exemption Removal Proposal has nothing to do with AB 327. Phase 3 of R.12-06-013 was initiated to explore potential "structural changes" to the CARE program in light of Assembly Bill 327. Initial working group discussions have focused on learning more about the IOU low-income population (e.g., income, usage, house size, etc.), not about long term procurement practices, properly forecasting departing load, or the

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3 October 6, 2015 Energy Division Disposition of SCE Advice 3214-E, which responded to this same proposal and is attached hereto as Exhibit A.

4 TURN filed a motion for party status in A.16-09-003 on November 2, 2016, noting its specific interest in the PCIA Exemption Removal Proposal.

5 D.15-07-001, p. 6.

reasonableness of certain nonbypassable charges.[6] That relatively new law would permit the CARE discount to be delivered differently for different customers provided that the overall effective discount remains in the statutory range of 30-35% (e.g., it could be a line-item discount, as a discount that varies based on usage level, or as a graduated discount based on income). SCE's PCIA Exemption Proposal does not bear on CARE discount delivery channel or the possibilities opened up by AB 327. Inclusion of SCE's PCIA Exemption Proposal in Phase 3 of the R.12-06-013 would unreasonably expand its scope. As described in below, the proposal seeks to preserve an indifference principle required by Public Utilities Code §365 and §366 that long predated AB 327. Moreover, SCE disagrees that the "PCIA exemption is a fundamental part of the CARE protections provided to CARE departing load customers."

I.

BACKGROUND

Customers participating in Direct Access and Community Choice Aggregation (CCA), collectively known as departing load, receive generation service from an energy service provider other than SCE. In addition to the generation rates set by their energy service provider, departing load customers are also subject to the PCIA that collects from departing load customers their share of "above-market," or uneconomic, costs of generation procured by SCE on their behalf prior to their departure. Bundled service customers pay the full costs of generation, including any costs that are deemed "above-market" in the PCIA calculation, through their bundled service generation rates. Departing load customers remain SCE delivery service customers and continue to pay the same distribution, transmission, and public purpose program charges as bundled service customers.

As SCE describes in detail in its Opening Testimony in its 2016 Rate Design Window, the PCIA exemption for CARE customers is an artifact of historical Energy Crisis-related

[6] Motion at p. 4.

ratemaking and policy originally intended to ensure that Direct Access CARE customers were not subject to surcharges from which bundled service counterparts were exempt.[7] [8] Those surcharges are no longer in bundled service or departing load non-CARE rates;[9] as such, the exemption is no longer relevant or appropriate, and is contrary to the intent outlined in Resolution E-3813. More importantly, it results in a CARE "double discount" to departing load CARE customers that bundled service CARE customers do not receive. Because this "double discount" subsidy is effectively funded by bundled service customers (as discussed in Section III), it is antithetical to the indifference principle.

II.

SCE'S PROPOSAL CAN, AND SHOULD, BE CONSIDERED IN A.16-09-003 AND NOT IN R.12-06-013

In Decision (D.) 05-12-041, which resolved various implementation issues associated with CCA programs, the Commission clearly considered how it would ensure that CCA CARE customers would continue to receive the benefits of the state's CARE program. Specifically, the Commission approved SCE, Pacific Gas and Electric (PG&E), and San Diego Gas and Electric's (SDG&E), collectively known as the utilities or IOUs, unopposed proposal to continue to calculate the CARE discount using "all elements of a customer's bill, including the CCA [generation] portion, but to apply the discount only to the distribution rate."[10] In other words, "the utilities would calculate the generation [or CCA] portion of [the CCA customers'] CARE

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[7] *See* Resolution E-3813 at p.20. "This treatment is consistent with that adopted for analogous bundled customers. We exempted bundled CARE and medical baseline usage from the 3-cent surcharge in D.01-05-064. Thus we clarify our intent to exempt CARE and Medical baseline DA customers from all components of the DA CRS, except for the CTC charges to be determined in the DA CRS Cap Proceeding, R.02-01-011."

[8] Resolution E-3813 at pp. 26-27.

[9] Procurement Energy Surcharge and DWR Power Charge for bundled service and departing load customers, respectively.

[10] D.05-12-041 at p. 52 (emphases added). Additionally, the utilities proposed to continue to exempt CCA CARE customers from the Public Purpose Programs charge and Department of Water Resources Bond Charge. *See* D.05-12-041 at p. 52.

discount using their own [utility] generation rates,"[11] and reflect ***the entire*** CARE discount to CARE customers in their distribution rates.[12] The Commission agreed that this ratemaking treatment guaranteed that all CCA CARE customers continued to receive the CARE discount "as if they had remained on bundled service."[13] Most importantly, despite Lancaster's assertion that "the PCIA exemption is…a fundamental protection for CARE customers," the Commission explicitly ruled in that seminal decision that "***the [CARE] discount should not be reflected in the CRS [more commonly known as the PCIA].***"[14]

Furthermore, the Commission recently adjudicated a nearly identical legal issue in A.14-11-007, the 2015-17 Low Income Assistance Proceeding. Specifically, the Scoping Memo in that proceeding[15] raised the ***legal*** question of how the CARE discount interacts with the Green Tariff Shared Renewables (GTSR) and Enhanced Community Renewables (ECR) programs, which allow participants to receive generation service from either a separate portfolio of renewable resources (GTSR) or a community-based renewable project (ECR), given the legislative requirement for non-participant indifference.[16] The recently approved Alternate Proposed Decision of Commissioner Sandoval declined to provide an incremental CARE discount beyond those already reflected in the distribution rates for GTSR and ECR customers and affirmed the ratemaking treatment described in D.05-12-041.[17]

Likewise, SCE's PCIA Exemption Removal Proposal requests a consistent legal interpretation of existing statutes and Commission precedents. The Commission's willingness to address and resolve a nearly identical issue outside of R.12-06-013 supports including SCE's

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11 *Ibid.* The construct of determining the 30-35% discount using the utilities' "standard" rates was recently affirmed in D.15-07-001. *See* D.15-07-001 at p. 237.

12 In other words, bundled service CARE customers' generation rates are exactly the same as bundled service non-CARE customers' generation rates.

13 *Ibid.*

14 *Ibid.* (emphasis added)

15 A.14-11-007 Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge, dated April 10, 2015.

16 Pub. Util. Code §2833(p).

17 *See* Alternate Proposed Decision Revision 4 in A.14-11-007 at p. 342, approved November 10, 2016.

PCIA Exemption Removal Proposal in the RDW. After resolving the issue in the RDW, the Commission will still be free to make any *structural* changes to the CARE discount in Phase 3 of R.12-06-013.

III.

EXPEDIENT RESOLUTION IS NECESSARY

The current PCIA exemption provided to departing load CARE customers essentially amounts to a "double discount" loophole at the expense of all bundled service customers, ***including bundled service CARE customers***.[18] Revenues collected through the PCIA are recorded as credits to the utilities' Energy Resource Recovery Account (ERRA), and therefore reduce bundled service customer generation rates by collecting from departing load customers their fair share of the above-market costs in SCE's bundled service generation portfolio.[19] SCE's inability to collect such costs from a significant portion of the CCA population[20] increases bundled service customer generation rates—a clear violation of Commission precedent and state law. This cost shift increases as departing load levels increase. As Lancaster notes, significant growth in CCA programs is expected in the near future.[21] As such, it is imperative that this issue be examined now before the inequitable exemption shifts more costs onto fewer and fewer bundled service customers.[22]

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[18] Unlike the "discount" provided through the PCIA exemption (which is funded by all bundled service customers), the statutory CARE discount is funded solely by non-CARE customers (both bundled service and departing load non-CARE customers). Revenues distributed through the CARE discount to CARE customers are recorded as a debit in the CARE balancing account, and revenues collected through the CARE surcharge from Non-CARE customers are recorded as a credit in the CARE Balancing Account. *See* SCE Preliminary Statement AA.

[19] The PCIA is a vintaged rate based on the date of the customers' departure, ensuring that they are only responsible for the above-market costs of generation assets acquired/procured prior to their departure.

[20] Lancaster's CARE population constitutes approximately 39% of its customers.

[21] Motion at p. 4.

[22] Timing is yet another reason to adjudicate this issue in the Rate Design Window, and not in R.12-06-013. R.12-06-013 is considering various complicated potential changes to the CARE program. SCE's narrow and discrete PCIA Exemption Removal Proposal can be dealt with expeditiously and efficiently in the 2016 Rate Design Window.

Lancaster repeatedly cites its concern about the PCIA "overburdening" departing load CARE customers. But Lancaster – as the energy service provider responsible for procuring generation and charging associated rates to its customers—does not provide its low-income customers with any discount on Lancaster's generation rates—an offering that is fully within its discretion.[23] Instead, Lancaster currently charges its residential CARE customers a generation rate that is higher than the generation rate it charges its residential non-CARE customers.[24] To be clear: Lancaster's self-determined generation rate for its low-income customers is higher than its rate for its high-income customers. In other words, Lancaster is using the current PCIA exemption double discount loophole for its CARE customers as a financing mechanism to increase generation revenue for itself, while still offering those customers a lower cumulative total retail bill. Of course that difference is funded by SCE's remaining bundled service customers – including SCE's remaining low-income CARE customers.

IV.

CONCLUSION

SCE does not seek to litigate the merits of its PCIA Exemption Proposal in this response to Lancaster's Motion for Consolidation. Rather, it respectfully requests that the Motion be denied because the discrete legal issue has nothing to do with AB 327, was not on the radar of the many parties already examining CARE restructuring in Phase 3 of R.12-06-013, and is important to resolve quickly without kicking the can down the road. The issue is already pending in the very next proceeding where SCE could legitimately put it after the Commission's Energy Division declined to review the proposal in a May 2016 advice letter filing. Lancaster has long been made aware of the legal issues, is not prejudiced by litigating them in

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[23] D.05-12-041 at p. 53.

[24] *See* Lancaster Choice Energy adopted rates for Domestic (D) and Domestic CARE (D-CARE) effective February 1, 2016, available at: http://www.lancasterchoiceenergy.com/userfiles/files/Adopted%20Rates%20RES%20-%20March%208th.pdf.

the RDW (where discovery is already under way) and has not made a compelling reason to uproot the issue from one proceeding to the other. SCE urges the Commission to reject Lancaster's Motion to consolidate SCE's PCIA Exemption Removal Proposal with R.12-06-013 and to address the proposal as soon as practicable in SCE's 2016 Rate Design Window.

Respectfully submitted,

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